

## INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 44-111.454Specific Purpose:

This section is amended to repeal the last sentence: “Exception: Any assistance provided by Voluntary Resettlement Agencies (VOLAG) as part of their resettlement responsibilities must be considered in determining the refugee’s eligibility for aid under the Refugee Demonstration Project (RDP) or Refugee Cash Assistance (RCA) program.”

Factual Basis:

This amendment is necessary because VOLAGs are nonprofit organizations as described in Section 501(c) of the Internal Revenue Code (45 CFR 400.59). Temporary Assistance to Needy Families (TANF) per 45 CFR 400.66(d) provides that any assistance given by a cash grant received by the applicant under the Department of State or Department of Justice Reception and Placement programs may not be treated as income. The treatment of income and resources for the RCA must be consistent with CalWORKs per 45 CFR 400.66(a)(1). Therefore, VOLAGs’ assistance is not counted in the RCA program. The RDP was ended September 30, 1989, by Assembly Bill 2635, (Chapter 1192, September 25, 1987).

Section 44-211.312(a)Specific Purpose:

This section is being repealed. Aid to Families with Dependent Children (AFDC) was replaced by TANF (45 CFR 400.66(a)(4)). In California, the TANF program is the CalWORKs Program (Welfare and Institutions Code Section 11200), which does not contain a prohibition against providing RCA applicants or recipients from receiving homeless assistance. Therefore, this provision is obsolete.

Factual Basis:

This section is repealed because applicants and recipients of RCA are eligible for homeless assistance in accordance with 45 CFR 400.52 which states that if a refugee is found eligible, they may receive emergency cash assistance. In addition, 45 CFR 400.66(a)(4) spells out that the State must operate its cash assistance programs consistent with the provisions of TANF.

Section 69-201

Specific Purpose/Factual Basis:

This section is amended to add an “s” to “service” to read “...medical assistance and social services to all refugees...” This amendment is necessary for grammatical correctness and clarity.

Section 69-202.1

Specific Purpose:

This section is amended to replace the agency name of “Immunization and Naturalization Service (INS)” with “United States Citizenship and Immigration Services (USCIS).”

Factual Basis:

This amendment is necessary to reflect the name of the federal agency that administers and manages United States citizenship and immigration. The USCIS is responsible for administration and management functions and responsibilities that were once in the former INS. The INS was transformed into the Bureau of Citizenship and Immigration Services (BCIS) on March 1, 2003 under the Department of Homeland Security (Homeland Security Act of 2002, , P.L. 107-296, Sections 451 and 471). The term “Immunization” was a typographical error at the time the regulations were published and was incorrect.

Section 69-202.15 (New)

Specific Purpose:

This section is added to read: “Certified as a victim of a severe form of trafficking by the federal Office of Refugee Resettlement (ORR).”

Factual Basis:

This amendment is necessary to reflect the addition of a USCIS status to the list of those who must provide documentation of their status for determining eligibility for cash assistance and social services under the Refugee Resettlement Program (RRP). Individuals who have been certified as a victim of a severe form of trafficking by the federal ORR are authorized to receive RCA as a result of the enactment of the Trafficking Victims Protection Act of 2000 (P.L. 106-386, Sections 107(d), (b)(1), (A), (B), and (C), ORR State Letter 01-13, dated May 3, 2001 and ORR State Letter 04-12, dated June 18, 2004).

#### Section 69-202.16 (New)

##### Specific Purpose:

This section is added to read: “Eligible family members of a victim of a severe form of trafficking certified by ORR who have a T-2, T-3, T-4, or T-5 Visa.”

##### Factual Basis:

This amendment is necessary to reflect the addition of a USCIS status to the list of those who must provide documentation of their status for determining eligibility for cash assistance and social services under the RRP. Eligible family members of certified trafficking victims were approved to receive assistance and services as a result of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193) and ORR State Letter 04-12, dated June 18, 2004.

#### Sections 69-202.17 and .18 (Renumbered)

##### Specific Purpose/Factual Basis:

These sections are amended to renumber Sections 69-202.15 and .16 to Sections 69-202.17 and .18, respectively, to allow for the additions of new Sections 69-202.15 and .16. This renumbering is for consistency.

#### Section 69-202.21

##### Specific Purpose:

This section is amended to replace the words “an INS” with “a USCIS.”

##### Factual Basis:

This amendment is necessary to reflect the name of the federal agency that administers and manages United States citizenship and immigration. The USCIS is responsible for administration and management functions and responsibilities that were once in the former INS. The INS was transformed into the Bureau of Citizenship and Immigration Services (BCIS) on March 1, 2003 under the Department of Homeland Security (Homeland Security Act of 2002, P.L. 107-296, Sections 451 and 471).

## Section 69-202.35

### Specific Purpose:

This section is amended to repeal the phrase “appropriate local county government agency to establish that relationship” and replace it with “agency, contracted with by the State to operate the Unaccompanied Refugee Minor Program, to initiate the establishment of legal custody and/or guardianship, as appropriate, in accordance with applicable State law.”

### Factual Basis:

This amendment is necessary to add the federal requirement to refer cases involving minor refugee children where no legal relationship is established to the agency contracted with by the State to ensure the process to establish legal custody and/or guardianship for the refugee minor is initiated. (California State Plan 2004-2005, Page 15, approved by ORR and ORR State Letter 02-07, dated March 6, 2002.)

## Section 69-205.2

### Specific Purpose:

This section is amended to replace “AFDC” with “CalWORKs” and to insert “C” in front of “DSS” to read “CDSS.”

### Factual Basis:

These amendments are necessary to refer to the appropriate acronyms that reflect the current assistance program and current Department name. CalWORKs is the acronym for the California Work Opportunity and Responsibility to Kids program (Welfare and Institutions Code Section 11200), that replaced the AFDC program and CDSS is the acronym for the California Department of Social Services.

## Section 69-205.241

### Specific Purpose:

This section is amended to replace “INS” with “USCIS” in the first sentence and to insert “, victims of a severe form of trafficking who are eligible for RCA beginning on the date they are certified by the ORR; eligible family members of certified trafficking victims who are eligible for RCA from the date of entry into the U.S. or the date the Derivative T Visa is issued if already present in the U.S.” in the final sentence of the paragraph between “Time-eligibility exceptions to this provision include asylees who are eligible for RCA beginning on the date they are granted asylum” and “and unaccompanied refugee minors (Section 69-213) who are not subject to the time-eligibility limitation.”

#### Factual Basis:

These amendments are necessary to reflect the acronym of the new federal agency that administers and manages United States citizenship and immigration. The USCIS is responsible for administration and management functions and responsibilities that were once in the former INS and is the organization that issues the form referred to in the section. The INS was transformed into the Bureau of Citizenship and Immigration Services (BCIS) on March 1, 2003 under the Department of Homeland Security (Homeland Security Act of 2002, P.L. 107-296, Sections 451 and 471).

These amendments are also necessary to reflect the additional exceptions to the time eligibility provision which states that the date of entry into the U.S. is the beginning date of eligibility for RCA. Victims of a severe form of trafficking that have been certified by the federal ORR were approved to receive assistance and services as a result of the enactment of the Trafficking Victims Protection Act of 2000. Eligible family members of certified trafficking victims were approved to receive assistance and services as a result of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193, ORR State Letter 01-13, dated May 3, 2001 and ORR State Letter 04-12, dated June 18, 2004).

#### Section 69-205.241(d)

##### Specific Purpose/Factual Basis:

This section is amended to replace the agency's acronym of "INS" with "USCIS" to reflect the correct name of the federal agency that administers and manages citizenship and immigration in the United States. USCIS is responsible for administration and management functions and responsibilities of the former INS. The INS was transformed into the Bureau of Citizenship and Immigration Services (BCIS) on March 1, 2003 under the Department of Homeland Security (Homeland Security Act of 2002, P.L. 107-296, Sections 451 and 471).

#### Section 69-207.15

##### Specific Purpose/Factual Basis:

This section is amended to correct a cross reference from Section 69-208.4 to Section 69-207.3 for consistency.

#### Section 69-207.21

##### Specific Purpose/Factual Basis:

This section is amended to correct a cross reference from Section 69-207.4 to Section 69-207.3 for consistency. Also "for exemption criteria" is added to describe the section referred to for clarity.

#### Section 69-208.24

Specific Purpose/Factual Basis:

This section is amended to correct a cross reference from Section 69-208.17 to Section 69-207.17 for consistency.

Section 69-208.25

Specific Purpose/Factual Basis:

This section is amended to correct a cross reference from Section 69-207.322 to Section 69-207.22 for consistency.

Section 69-208.41

Specific Purpose/Factual Basis:

This section is amended to correct a cross reference from Section 69-208 to Section 69-207 for consistency.

Section 69-209.2

Specific Purpose/Factual Basis:

This section is amended to correct cross references from Sections 69-208.6, .61, and .7 to Sections 69-208.7, .71, and .8, respectively, for consistency.

Section 69-209.3

Specific Purpose:

This section is amended to insert the phrase “and six months for subsequent occurrences.”

Factual Basis:

This amendment is necessary to provide the term of ineligibility for RCA benefits for a second or subsequent occurrence of noncompliance on the part of the recipient without good cause in conformity with 45 CFR 400.82(c)(2).

Section 69-209.42

Specific Purpose/Factual Basis:

This section is amended to correct a cross reference from Section 69-505.22 to Section 69-205.23 for consistency.

Section 69-209.44

Specific Purpose/Factual Basis:

This section is amended to correct a cross reference from Section 69-211 to Section 69.210.1 for consistency. Also “(Notices)” is added to describe the section referred to for clarity.

Section 69-210.22

Specific Purpose/Factual Basis:

This section is amended to repeal “An” and remove “s” for grammatical correctness and clarity.

Section 69-211.3

Specific Purpose:

This section is amended to replace “INS” with “USCIS” and “Save” with “SAVE.”

Factual Basis:

These amendments are necessary to reflect the agency’s acronym of “INS” with “USCIS” to reflect the correct name of the federal agency that administers and manages citizenship and immigration in the United States. USCIS is responsible for administration and management functions and responsibilities of the former INS. The INS was transformed into the BCIS on March 1, 2003 under the Department of Homeland Security (Homeland Security Act of 2002, P.L. 107-296, Sections 451 and 471). These amendments are also necessary to reflect correctly the acronym for the Systematic Alien Verification for Entitlements system.

Section 69-212

Specific Purpose/Factual Basis:

This section is amended to show the correct CFR section in the reference citation relating to the recovery of overpayments and correction of underpayments in the RCA program for clarity.

Section 69-213.12 (New)

Specific Purpose:

This section is being added to provide information specific to who is eligible to receive services under this section.

Factual Basis:

This section is necessary because minors who are eligible for services under the Unaccompanied Refugee Minor (URM) program are classified the same as individuals who are eligible to receive services under the RRP. (ORR State Letter 02-07, dated March 6, 2002 and 45 CFR 400.43).

#### Section 69-213.121

##### Specific Purpose:

This section is being added because specific circumstances pertain to minors who are granted asylum. Asylee minors must be reclassified as URM to be eligible for URM services.

##### Factual Basis:

This section is necessary to comply with federal requirements in relation to serving asylees in the URM program (ORR State Letter 01-27 dated October 2, 2001, ORR State Letter 02-07 dated March 6, 2002 and 45 CFR 400, Section 400.110 - Section 400.120).

#### Section 69-213.122

##### Specific Purpose:

This section is added because specific circumstances pertain to minors who are trafficking victims and are eligible for URM services.

##### Factual Basis:

This section is necessary to comply with federal requirements in relation to serving trafficking victims in the URM program (ORR State Letter 01-13 dated May 3, 2001, ORR State Letter 04-12, dated June 18, 2004, and 45 CFR Part 400, Section 400.110 - Section 400-120).

#### Sections 69-213.13 through .133 (Renumbered)

##### Specific Purpose/Factual Basis:

These sections are amended to renumber Sections 69-213.12 through .123 to Sections 69-213.13 through .133, respectively, to allow for the adoption of new Sections 69-213.12 through .123. This renumbering is necessary for clarity and consistency.

## Sections 69-213.14 (Renumbered)

### Specific Purpose/Factual Basis:

This section is amended to renumber from Section 69-213.13 to Section 69-213.14 to allow for the adoption of new Sections 69-213.12 through .123. This renumbering is for consistency.

### Section 69-213.3

#### Specific Purpose:

This section is amended to add the word “refugee” into the phrase “unaccompanied minor” and changes the term “CWD” to “VOLAG.”

#### Factual Basis:

These amendments are necessary because inserting the word “refugee” into the phrase “unaccompanied minor” maintains consistency within Section 69-213 by referring to unaccompanied minors as “unaccompanied refugee minors.” Changing “CWD” to “VOLAG” was done because CWDs are no longer the entity responsible for operating the URM program. (See MPP Section 69-203.1 regarding VOLAG, National Voluntary Agencies working with the Federal Government, ORR State Letter 02-07, dated March 6, 2002 and the California State Plan 2004-2005, Page 15, approved by ORR.)

### Section 69-213.5

#### Specific Purpose:

This section is amended to change “Foster Care” to “Child Welfare” and “Division 30” to “Division 31.”

#### Factual Basis:

These amendments are necessary because the URM program must follow the Child Welfare Services regulations which are found in Division 31, in accordance with 45 CFR 400.12.

### Section 69-213.6

#### Specific Purpose:

This section is amended to change “Division 30” to “Division 31;” “CWD” to “VOLAG;” and inserts the word “refugee” into the phrase “unaccompanied minors.”

Factual Basis:

These amendments are necessary because changing “Division 30” to “Division 31” indicates that the URM program must follow the Child Welfare Services regulations which are found in Division 31, in accordance with 45 CFR 400.12. Changing “CWD” to “VOLAG” was done because CWDs are no longer the entity responsible for operating the URM program. The insertion of the word “refugee” into the phrase “unaccompanied minors” was made to maintain consistency within Section 69-213 by referring to unaccompanied minors as “unaccompanied refugee minors.” (See MPP Section 69-203.1 regarding VOLAG, National Voluntary Agencies working with the Federal Government and ORR State Letter 02-07, dated March 6, 2002).

Section 69-213.61

Specific Purpose/Factual Basis:

This section is amended to repeal “and” at the end of the sentence for grammatical purposes and has no regulatory effect.

Section 69-213.62

Specific Purpose/Factual Basis:

This section repeals the period and adds a semi-colon at the end of the sentence. This is done for grammatical purposes and has no regulatory effect.

Section 69-213.63

Specific Purpose:

This section is adopted to add “Preservation of the minor’s ethnic and religious heritage; and” to services for unaccompanied refugee minors.

Factual Basis:

This adoption is necessary to comply with 45 CFR 400.118(b)(6).

Section 69-213.64 (Renumbered)

Specific Purpose/Factual Basis:

This section is amended to renumber from Section 69-213.63 to accommodate the adoption of new Section 69-213.63.

#### Section 69-213.641 (Renumbered)

##### Specific Purpose:

This section is amended to renumber from Section 69-213.631 to accommodate the adoption of a new Section 69-213.63. It is also amended to change “CWD” to “VOLAG.”

##### Factual Basis:

The renumbering is necessary for clarity. Changing “CWD” to “VOLAG” was done because CWDs are no longer the entity responsible for operating the URM program. (See MPP Section 69-203.1 regarding VOLAG, National Voluntary Agencies working with the Federal Government, ORR State Letter 02-07, dated March 6, 2002 and the California State Plan 2004-2005, Page 15, approved by ORR).

#### Section 69-213.641(a)

##### Specific Purpose:

This section is amended to renumber from Section 69-213.631(a) to accommodate the adoption of a new Section 69-213.631. It is also amended to change the word “county” to “location of resettlement.”

##### Factual Basis:

The renumbering is necessary for clarity. Changing “county” to “location of resettlement” is necessary since the counties are no longer responsible for the resettlement of unaccompanied refugee minors. (ORR State Letter 02-07, dated March 6, 2002 and the California State Plan 2004-2005, Page 15, approved by ORR).

#### Section 69-214.6

##### Specific Purpose/Factual Basis:

This section is amended to correct cross references from Sections 69-205.52, .53, and .54 to Sections 69-205.42, .43, and .44, respectively, for consistency.

#### Sections 69-216.21 and .24

##### Specific Purpose/Factual Basis:

These sections are amended to replace the agency’s acronym of “INS” with “USCIS” to reflect the correct name of the federal agency that administers and manages citizenship and immigration in the United States. USCIS is responsible for administration and management functions and responsibilities of the former INS. The INS was transformed into the BCIS on March 1, 2003 under the Department of Homeland Security (Homeland Security Act of 2002, P.L. 107-296, Sections 451 and 471).

#### Section 69-302.4

##### Specific Purpose/Factual Basis:

This section is amended to replace the agency's acronym of "INS" with "USCIS" to reflect the correct name of the federal agency that administers and manages citizenship and immigration in the United States. USCIS is responsible for administration and management functions and responsibilities of the former INS. The INS was transformed into the BCIS on March 1, 2003 under the Department of Homeland Security (Homeland Security Act, P.L. 107-296).

#### Section 69-303

##### Specific Purpose/Factual Basis:

This section is amended to replace the agency's acronym of "INS" with "USCIS" to reflect the correct name of the federal agency that administers and manages citizenship and immigration in the United States. USCIS is responsible for administration and management functions and responsibilities of the former INS. The INS was transformed into the BCIS on March 1, 2003 under the Department of Homeland Security (Homeland Security Act of 2002, P.L. 107-296, Sections 451 and 471).

#### Section 69-304

##### Specific Purpose/Factual Basis:

This section is amended to add an "s" to "program" for clarity since this section refers to two programs.

#### Section 69-305.111

##### Specific Purpose/Factual Basis:

This section is amended to change the term "EAS" to "MPP". This amendment is necessary because "EAS" is an obsolete term and has been replaced with "MPP" for ease of use, clarity and to maintain consistency.

### Section 69-305.3

#### Specific Purpose:

This section is amended to add an “s” to “Section;” correct a cross reference from Section 69-214.4 to Section 69-213.2, and to add the phrase “except unaccompanied entrant minor cases shall be claimed under ECA.”

#### Factual Basis:

This amendment is necessary because an “s” needs to be added to “Section” to make it plural; the cross reference was incorrect and the addition of the phrase “except unaccompanied entrant minor cases shall be claimed under ECA” was made because the Cuban/Haitian Entrant Program is to be claimed for reimbursement under Entrant Cash Assistance. (45 CFR 401.12 and the California State Plan 2004-2005, Page 15, approved by ORR)

#### b) Identification of Documents Upon Which Department Is Relying

- The Trafficking Victims Protection Act of 2000 (P.L. 106-386, Sections 107(d), (b)(1), (A), (B), and (C))
- The Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193)
- Homeland Security Act of 2002 (P.L. 107-296, Sections 451 and 471)
- Refugee Resettlement Program (45 CFR 400 et seq.)
- Cuban/Haitian Entrant Program (45 CFR 401)
- California State Plan for Refugee/Entrant Assistance and Services 2004-2005 approved by ORR.
- Office of Refugee Resettlement Statement of Goals, Priorities, Standards, and Guidelines for the Unaccompanied Minor Refugee and Cuban/Haitian Entrant Program as published in the Federal Register, Vol. 52, No. 198, dated October 14, 1987.
- Office of Refugee Resettlement State Letter No. 00-12, dated June 15, 2000, Asylee Eligibility for Refugee Resettlement Program Benefits
- Office of Refugee Resettlement State Letter No. 01-13, dated May 3, 2001, The Trafficking Victims Protection Act of 2000
- Office of Refugee Resettlement State Letter No. 01-27, dated October 2, 2001, Reclassification to Unaccompanied Minor Program
- Office of Refugee Resettlement State Letter No. 02-01 dated January 4, 2002, The Trafficking Victims Protection Act of 2000 - Removal of Expiration Dates from Certification Letters for Adults and Eligibility Letters for Children
- Office of Refugee Resettlement State Letter No. 02-07, dated March 6, 2002, Reclassification of Unaccompanied Minors
- Office of Refugee Resettlement State Letter No. 04-12, dated June 18, 2004, The Trafficking Victims Protection Reauthorization Act of 2003 - Eligibility for Federally Funded or Administered Benefits and Services to the Same Extent as Refugees Extended to Certain Family Members of Victims of a Severe Form of Trafficking in Persons
- Assembly Bill 2635, Statutes of 1987, Chapter 1192

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not school districts. There are no “state-mandated local costs” in these regulations which require state reimbursement under Sections 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by and funded by the federal government.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.